

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**PATRICK MURPHY, #25208,
Plaintiff,**

v.

**MESQUITE CITY POLICE
DEPARTMENT, et al.,
Defendants.**

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3:09-CV-0160-B


**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions and a recommendation in this case. No objections were filed. The District Court reviewed the proposed findings, conclusions and recommendation for plain error. Finding none, the Court ACCEPTS the Findings, Conclusions and Recommendation of the United States Magistrate Judge, DISMISSES as frivolous Plaintiff's claims against Defendants Mesquite City Police Department, Abbott's superior, and the City of Mesquite, *see* 28 U.S.C. §§ 1915A(b) and 1915(e)(2), and DIRECTS that service of process be issued on Plaintiff's excessive force claim against Officer Abbott.

Since Plaintiff was previously granted leave to proceed *in forma pauperis*, the Clerk is DIRECTED to prepare and issue summons for Defendant Abbott, Mesquite Police Department, 711 N. Galloway Ave., Mesquite, Texas 75149, and to deliver the same to the United States Marshal for service of process pursuant to Rule 4, Federal Rules of Civil Procedure, along with a copy of the complaint, Plaintiff's answers to the first and second questionnaires, and the

recommendation of the magistrate judge.¹

SO ORDERED this 1st day of June, 2009.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE

¹ In answer to the second questionnaire, Plaintiff describes Officer Abbott as a white male, with brown hair, 5'6" to 5'10" tall, 160-180 lbs., and 30-35 years old. (*See* Plaintiff's Answer to Question1 of the Second Questionnaire).